

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 6281 of 2004

Between:

S.H.Dayal Singh Kandari S/o of Hayat Singh Kandari, 62 years, worked as constable No.680281852, 35th Battalion, C.R.P.F., Hyderabad R/o Tiula Village, Harami Post, Chamoli District, Uttaranchal State.

..... PETITIONER

AND

- 1 Union of India ,Home Ministry, rep.by its
Secretary, New Delhi
- 2 The Director General of Police ,C.R.P.F.
Lodhi Road, New Delhi
- 3 The Inspector General of Police, NES, C.R.P.F., Shillong
- 4 The Deputy Inspector General of Police, C.R.P.F.
Khatkati, Assam
- 5 The Commandant, 35th Battallion, C.R.P.F.
Group Centre Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Respondents Proceedings No.P.III-1/2003-D/1-2 dt. 2/07/2003 issued by the 2nd respondent is highly illegal, arbitrary and unjustified and set aside the same with a direction to the respondent to pay the pensionary Benefits to the petitioner within the period fixed by this Hon'ble Court.

Counsel for the Petitioner: MR.M.V.S.SAI KUMAR

Counsel for the Respondents : MR.S.S.VARMA (ADDL CGSC)

The Court made the following :

ORDER:

The petitioner questions the proceedings dated 02-07-2003, wherein the Director General of Police, C.R.P.F., New Delhi informed the petitioner that he is not entitled to get any pension benefits under Rule 26 of C.C.S.(Pension) Rules 1972 as he has unconditionally resigned from the services with effect from 31-05-1979. About the non-entitlement of pension, the 2nd respondent also informed to the petitioner by orders dated 9-10-2002 and 28-03-2003, stating that there is no provision for grant of any pension benefits to a person who quits from service by tendering an unconditional resignation. The resignation tendered by the petitioner on 03-05-1979 was accepted by the 5th respondent (Commandant, 35th Battalion) on 09-05-1979 and therefore, the petitioner is not entitled for any pension benefits.

The case of the petitioner is that he filed a Civil Suit in O.S. No.2898 of 1990, on the file of 8th Assistant Judge, City Civil Courts, Hyderabad, for a direction to the respondents to consider the case of the petitioner for retirement benefits on humanitarian grounds, but the said suit was dismissed on 19-06-1995, holding that if an employee is not entitled for any benefits as per Rules, the Court cannot give any such directions. Aggrieved by that order, the petitioner filed A.S.No.197 of 1997 on the file of Chief Judge, City Civil Courts, Hyderabad and the same was also dismissed on 05-03-2000, with a direction to the Department to examine any application if submitted by the petitioner for grant of pensionary benefits, purely on humanitarian grounds. Accordingly, the petitioner submitted an application on 11-07-2002 to the Director General, C.R.P.F. (2nd respondent) to provide all pensionary benefits and the said application was examined and rejected by the order dated 9-

10-2002.

As regards to the tendering of resignation voluntarily, it is stated by the learned counsel appearing for the petitioner that he had been pressurized to tender the resignation and he wanted to withdraw the said resignation, but the authorities have not permitted the same. The petitioner has not stated earlier with regard to the pressurization of the Officers or what so ever, for tendering his resignation for the voluntary retirement in the suit or in his representation submitted to the authorities concerned. Therefore, the said claim of the petitioner is only an after thought. The petitioner ought to have taken all such steps in the Civil suit filed by him and ought to have establish the said contentions therein and it is not open for the petitioner to raise the said pleas in this Writ Petition. The petitioner also could not show any other rules favourable to him for payment of pension, in case when resignation was voluntarily submitted, which was accepted unconditionally. Therefore, I do not see any illegality or irregularity in the said impugned order passed by the 2nd respondent, in rejecting the application of the petitioner for payment of pension benefits.

The Writ Petition is accordingly dismissed. No costs.

29th JULY 2004

BSS/ChVN

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Secretary, Union of India, Home Ministry, New Delhi
- 2 The Director General of Police, C.R.P.F.Lodhi Road, New Delhi
- 3 The Inspector General of Police, NES, C.R.P.F., Shillong
- 4 The Deputy Inspector General of Police, C.R.P.F. Khatkati, Assam
- 5 The Commandant, 35th Battallion, C.R.P.F. Group Centre, Hyderabad,

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